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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,633	08/07/2000	David W. Brown	ROYG-1-1001	3331

25315 7590 04/01/2003

BLACK LOWE & GRAHAM
816 SECOND AVE.
SEATTLE, WA 98104

EXAMINER

CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 04/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/633,633

Applicant(s)

BROWN ET AL. 

Examiner

John Q. Chavis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2000 and 14 December 2000 and 02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it is longer than 150 words.

Correction is required. See MPEP § 608.01(b).

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 5,691,897. Although the

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conflicting claims are not identical, they are not patentably distinct from each other because of the reasons indicated below. The claims are merely a generic version of claims 1-25.

Claims

1. A method of moving an object in a desired manner using a motion control device from a group of supported motion control devices, comprising the steps of:

(i) selecting a software driver from a plurality of software drivers, each of the plurality of software drivers comprising driver code to control one or more motion control devices;

(ii) generating a control command based on a application program and the driver code of the selected software driver; and

(iii) operating the selected motion operating control device in accordance with the control command to move the object.

2. The method of claim 1, wherein the step of generating a control command is further based on a set of driver functions, each driver function defining one or more incremental motion steps that may be performed by the motion control device.

3. The method of claim 2, wherein the application program comprises a sequence of component functions, and at least some of the component functions are associated with driver functions.

4. The method of claim 3, wherein the set of driver functions comprises a subset of first driver functions and a subset of second driver functions, and wherein each

Brown

See the title, abstract and background of the invention and claim 1 of '897.

See col. 3 lines 37-43 and the selecting steps of claim 1.

See col. 3 lines 43-45 and lines 58-61 and the generating step of claim 1.

See col. 3 lines 45-61 and the step of claim 1.

See col. 3 lines 48-61, claim 4 of '897 and the developing step of claim 1.

See col. 3 lines 54-56 and the providing step of claim 1.

See col. 3 lines 56-61 and col. 4 lines 1-16 and claim 4 in which the extended functions provide for the subset.

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first driver function identifies an incremental motion step that may be performed by a motion control device and each second driver function identifies a plurality of incremental motion steps that may be performed by a motion control device.

In reference to claims 5-8, see the rejections above of claims 1-2, 4 and 3, respectively.

The applicant refers to a system in the present claims, while a method had been referenced in the previous set of claims. Therefore, the system features are taught via figs. 32 and 41 and the background of the invention.

As per claim 9, see the rejection of claim 8, supra, and col. 14 lines 22-42.

The features of claims 13, 14 and 16 are rejected as claims 1-3, above.

Claim 15 is rejected as claim 14 with Brown's core and extended functions representing the applicant's primitive and non-primitive functions, col. 36 lines 25-33 and claims 5 and 6.

As per claims 10-12, see the rejection of claim 8, supra, and col. 14 lines 22-42. Brown does not limit his invention to a specific device. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the processor in a specific location to take advantage of the features provided by the location. For example, the feature of utilizing a PDA provides for inherent remote uses of the invention as having the processor stored in the motion control device. While, having the processor stored on a network (server) simplifies access to multiple external units. Therefore, each of the features would have been obvious to a person of ordinary skill in the art at the time of the invention to take advantage of the inherent benefits of having the processor in a specified location as indicated above.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Chavis whose telephone number is 703-305-9665. The examiner can normally be reached on 8:30 am-5:00 pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 703-305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3900.



Jqc
March 20, 2003



JOHN CHAVIS
PATENT EXAMINER
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